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December 12, 2002

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Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW, Room TW-A325
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RE: Improving Public Safety Communications in the
800 MHz Band, WT Docket No. 02-55

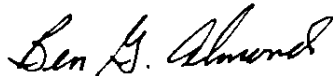
EX PARTE

Dear Ms. Dortch:

This is to inform you that on December 12, 2002 representatives of Cingular Wireless met with Commissioner Kathleen Q. Abernathy and Acting Legal Advisor, John Branscome to discuss issues related to the above referenced proceeding. Brian Fontes, Andrew Clegg, Jim Bugel and Ben Almond, all of Cingular Wireless participated in the discussion.

The attached documents were used for discussion purposes. Please associate this notification and the accompanying materials with the referenced docket proceeding.

Sincerely,



Ben G. Almond
Vice President-Federal Regulatory Affairs

Attachments

Cc: Commissioner Kathleen Q. Abernathy
John Branscome

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800 MHz Public Safety Interference

The Nextel/Consensus Plan (NCP):

- Broadly, the Nextel plan Rebands the X00 MHz band by:
 - * Moving the NPSPAC to 806-809/851-854 MHz
 - Moving Nextel out of the 809-816/854-861 MHz band leaving public safety, B/ILT, and high-site SMR in the 809-814/854-859 MHz band; public safety and "campus" systems in the 814-816/859-861 MHz band.
 - Nextel would get 16 MHz of contiguous spectrum in 816-824/861-869 MHz.
 - Nextel would give up its 700 MHz guardband spectrum and 900 MHz spectrum,
 - Nextel would receive 10 MHz of contiguous nationwide spectrum at 1910-1915/1990-1995 MHz.

The NCP is self-serving spectrum grab by Nextel:

- X00 MHz holdings:
 - The Commission must not be misled by Nextel's "running averages" – Nextel appears to overstate its spectrum holdings.
 - Due to restrictions on 800 MHz channel use in border areas as well as spectrum holdings by other ESMR providers, particularly in the southeast, Nextel's calculations are suspect.
 - Running average of 18.5 MHz is misleading as it is the median (using Nextel's own numbers) not an average. The average using its numbers is 17.8 MHz.
 - There is considerable variation of Nextel's holdings and it certainly doesn't have greater than 16 MHz nationwide.
 - In a vast majority of markets, Nextel does not have more than a 2x5 MHz block of contiguous spectrum
 - The Commission has recognized that contiguous spectrum is more valuable than interleaved spectrum.
 - Nextel on this issue is disingenuous. On the one hand, Nextel says that the Commission lacks the methodology for assessing a variety of economic factors in order to determine whether Nextel would be obtaining a windfall. On the other hand, as it relates to public safety, Nextel argues that any transition problems that may be encountered in implementing the NCP are far outweighed by the benefits of reduced interference and access to additional, contiguous spectrum. (pg. 33)
- 700 MHz holding:
 - The guard bands cannot be used for CMRS - in fact, cellular architecture is not allowed in the guard bands.
 - Band managers are required to lease out 50% of capacity to non-affiliated entities.
 - Significant restrictions and operating parameters on the use of the band (e.g., out-of-band emission limits)
 - Nextel does not hold licenses nationwide.
- 900 MHz holding:
 - Again, the Commission must not be misled by Nextel's "running averages" – Nextel appears to overstate its spectrum holdings.
 - iDEN equipment has only recently been made to operate in the 900 MHz band.
 - Little, if any, of the spectrum is contiguous.
 - Spectrum holdings are not nationwide

And, interference to public safety will not be eliminated.

The **NCP** does not solve interference:

- Receiver overload is not addressed. Under the NCP, Nextel's band and a portion of the cellular bands would still be within the public safety receiver's filter bandpass. Unless public safety obtains new receivers, receiver overload will not be mitigated.
 - The NCP discourages public safety from obtaining new receivers.
- Intermodulation will be somewhat mitigated by the slight increase in spectral separation proposed by the plan - but at a tremendous cost.
 - By increasing the distance between public safety and CMRS, a reduction in the intermodulation products being generated that interfere with public safety is possible. The amount of reduction, however, cannot be quantified, and intermodulation will not be eliminated. The cost for relocating X00 MHz licensees, including public safety in the hope of reducing intermodulation **will** be tremendous.
 - As Nextel points out, intermodulation could be further initiated if public safety receivers had narrower front-ends; again, however, the NCP discourages new public safety receivers.
- Transmitter sideband noise would be eliminated to the extent that Nextel is no longer operating in interleaved channels.
- Even Nextel admits that the majority of interference cases can be mitigated case-by-case. (pg. 40)
- Therefore, the NCP will **impose** significant costs, cause enormous disruption, and take years to implement -- all without resolving interference.

The **NCP** discourages public safety from **getting** new receivers:

- Public safety radios and systems are unsuitable for the environment in which they are operating.
 - The next generation dual-band public safety radios will be even worse.
- Nextel's \$500 million contingent "commitment" would only pay for retuning costs. All equipment that can be retuned must be retuned rather than replaced. New equipment or system enhancements are at the expense of public safety.
- **Therefore**, the **NCP** does not **provide** incentives for public safety to acquire new receivers, thus perpetuating interference to public safety at a tremendous cost.

Nextel is the primary **cause of** interference to public safety

- A majority of those commenting in the proceeding, B/ILT, SMR, public safety and cellular carriers recognized Nextel as the primary, and almost exclusive, cause of interference to public safety
- Despite the empirical data and recognition by nearly all commenting parties that Nextel is the primary cause of interference to public safety systems, all other non-public safety licensees operating in the band are expected to assist in solving the "Nextel problem" at considerable cost.

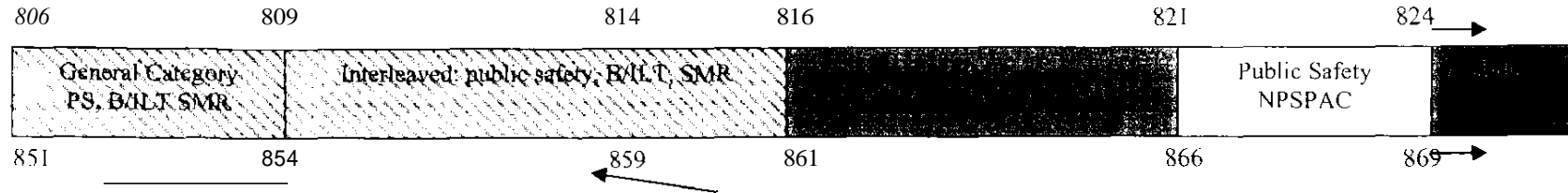
Other issues regarding the NCP:

- If the FCC adopts this plan, LCGG Mason predicts it would increase Nextel's asset value between \$1.2 billion to \$4.8 billion.
- It will take a minimum of 3 to 4 years to implement after the FCC issues a ruling and all appeals are complete – assuming that all appeals, both FCC appeals and court appeals, fail.
- 309(j) is implicated: Disproportionately benefits Nextel; such a disproportionate exchange is contrary to section 309(j) and FCC policy of not favoring one competitor over others.
- No public safety entity would be required to relocate unless costs for conversion are covered by a third party and all new NPSPAC channels are made available. When would Nextel get the 1.9 GHz band? Could they get it and never have to move out of lower 800?
- Nextel's ability to procure spectrum where it does not currently hold a license is questionable.
- There is more than one request for the 1910-1915 MHz / 1990-1995 MHz block of spectrum.
- 700 MHz and 900 MHz portion of the plan will have no impact on interference – it will not do anything to resolve interference.

NEXTEL PROPOSAL

IMPLEMENTATION OF THE PROPOSED NEXTEL PROPOSAL:

Current 800 MHz:



First Public safety in 806-809/851-854 MHz or 814-816/859-861 MHz **swaps** with channels with Nextel for one in the 809-814/854-859 MHz band

Second Site-licensed B/ILT and SMR in 806-809/851-854 relocate to vacated PS or Nextel spectrum in 814-816/859-861 or vacated spectrum in 809-814/854 859.

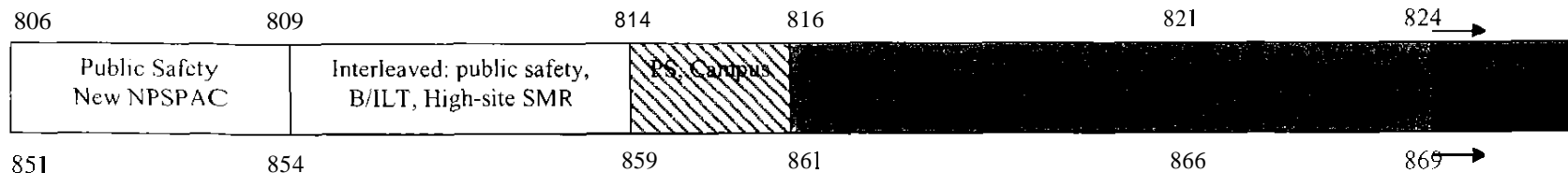
Third, EA licensees will also move out of 806-809/851-854 MHz to 809-816/854-861 MHz (after 12/20/03)

At the end of these three steps, Nextel will have all 806-809/851-854 MHz band.

Fourth, the NPSPAC licensees relocate from 821-824/866-869 MHz to 806-809/851-854 MHz swapping with Nextel

Fifth, Nextel clears out of 809-816/854-861 MHz.

800 MHz band after:



Additional Proposal:

